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10/749671

HT3827USNA

RESPONSE TO RESTRICTION REQUIREMENT
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MAR 03 2005

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN THE APPLICATION OF:

NICOLE L. BLANKENBECKLER ET. AL. CASE HT3827USNA
NO.:

APPLICATION NO.: 10/749671 GROUP ART 3742
UNIT:

FILED: DECEMBER 31, 2003 EXAMINER: PHILIP H. LEUNG

FOR: ARTICLE CONTAINING MICROWAVE SUSCEPTOR MATERIAL

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In the Office communication dated February 8, 2005, a restriction was set forth between:

- I. Claims 11-20, drawn to a method of heating a food product, classified in class 426, subclass 241.
- II. Claims 24-30, drawn to a method of making and preparing a food packaging article, classified in class 53, subclass 461.

The Office communication states that claims 1-10 and 21-23 drawn to an article and food packaged article will be examined with the elected invention.

In response, applicants hereby elect the embodiment of Group II, claims 24-30, drawn to a method of making and preparing a food packaging article. This election is made with traverse.

It is respectfully submitted that all claims presented in this patent application should be examined on their merits. The non-elected claims directed to heating a food product represent the use of the article claims and present the use of the article made by the method of elected Group II.

The support for the restriction requirement set forth in paragraph 2 of the Office communication is not understood. Applicants agree with an introductory sentence set forth in paragraph 2, namely "The use as claimed cannot be practiced with a materially different

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Docket No.: HT3827USNA

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product." (However, applicants question whether the word "cannot" was meant to be -- can -- in support of the Office position).

However, paragraph 2 sets forth an unsupported conclusion in the wording "Since the product... is not allowable...". An obviously erroneous statement is present; no action on the merits of any claim has been set forth concerning a rejection such as under the provisions of 35 USC 112, 35 USC 102 or 35 USC 103.

In summary, applicants traverse the restriction requirement. Clarification of the Office position is requested in view of the fact that an erroneous statement is believed present.

An action on the merits is solicited.

Respectfully submitted,



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Dated: March 3, 2005